

## Internal Revenue Service

Number: **201109017**

Release Date: 3/4/2011

Index Number: 1233.00-00, 9300.99-11

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:FIP:B06

PLR-146608-10

Date:

November 23, 2010

### Legend

Parent =

Subsidiary =

Year 1 =

Date 1 =

Date 2 =

Bank =

Dear :

This letter regards the private letter ruling 200440005 that was issued on June 10, 2004 to Parent by Associate Chief Counsel (Financial Institutions & Products), Branch 1. The ruling addressed the effect of the delivery of borrowed shares to close out two transactions, described as Financial Contracts, entered into by Parent in Year 1 and governed by a single master stock purchase agreement dated Date 1 between Parent and Bank. Certain terms relevant to each transaction were established in two separate transaction confirmations signed by Parent and Bank on Date 1 and Date 2.

Private letter ruling 200440005 provided three rulings: (1) the delivery of borrowed shares in satisfaction of the Financial Contracts will not cause Subsidiary to recognize gain on the Financial Contracts; (2) the delivery of borrowed shares did not give rise to constructive sales of the Financial Contracts under section 1259(c)(1)(D) of the Internal Revenue Code; and (3) the delivery of borrowed shares and the retention of the Existing Shares resulted in gain recognition under section 1259(c)(1)(A) equal to the excess of the fair market value of the Existing Shares over Subsidiary's basis on the Existing Shares.

Please be advised that these rulings in private letter ruling 200440005, i.e., as described above are hereby withdrawn in accordance with § 11.06 of Rev. Proc. 2010-1, 2010 I.R.B. 1. The revocation of these three rulings is applied without retroactive effect with respect to the particular transactions described therein. See § 11.07 of Rev. Proc. 2010-1.

Sincerely,

Patrick E. White  
Senior Counsel, Branch 6  
(Financial Institutions & Products )